

SENATOR MATZKE: You're absolutely right. Those are felony assault cases and certainly any conscientious prosecutor would not file under the hazing statute. But if you had a group of a dozen or two dozen pledges and they lined them up and they said now if you really want to be a member of our fraternity, you're going to take your pants down so we can...

SENATOR LINDSAY: One minute.

SENATOR MATZKE: ...brand you with a little star on your buttocks and everybody does that and I'm told that that sort of thing has occurred to prove their manhood and they're told, well, it doesn't hurt, it will, you know, you'll get over it in a couple of days, that sort of conduct, even if consented to, could be prosecuted under the hazing statute. Under our present statutes that would not be an assault and it's the type of hazing activity as defined specifically in this statute that this bill is directed against.

SENATOR WITEK: And the prosecutor would be the one to determine then if the degree of the assault was hazing or a higher degree of assault. That would be the prosecutor's call on that.

SENATOR MATZKE: Really, you've got two checks. That's always the case. The prosecutor always has to decide, you know, such as in a murder case, the prosecutors...

SENATOR LINDSAY: Time.

SENATOR MATZKE: ...have to decide and then it's up to the court secondarily to make the determination.

SENATOR WITEK: Thank you.

SENATOR LINDSAY: Thank you, Senator Witek. Senator Chambers.

SENATOR CHAMBERS: Mr. President and members of the Legislature, having found out that Senator Matzke does not want to answer any of my questions directly, I'm just going to comment now. Senator Witek, if you will start reading with the word "such" in line 10 you'll see that it says "such hazing activity shall include whipping, beating, branding". His statute says that branding is hazing. It's included. If they use this hot iron and it has a star on it, that causes bodily injury. That is an